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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
Limitations on Commercial Time on)
Television Broadcast Stations)

MM Docket No. 93-254

To: The Commission - Mail Stop 1170

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COMMENTS OF THE COMMUNITY BROADCASTERS ASSOCIATION

1. The Community Broadcasters Association (CBA) hereby submits its Comments in response to the Commission's Notice of Inquiry (Notice) in the above-captioned proceeding, 8 FCC Rcd. 7277 (released October 7, 1993). CBA is the trade association of the nation's low-power television (LPTV) stations.

2. CBA believes that in today's extremely competitive video services environment there is no need for governmental regulatory intervention to control the quantity of commercial content on television, except for commercial material directed toward specially protected groups such as children. If a station broadcasts too much commercial material, the audience in virtually every viewing home has several alternatives from which to choose, either over-the-air, on cable, or both, with DBS soon to join. Today, almost any viewer can readily abandon any station that does not suit his or her pleasure.^{1/}

^{1/} Under the circumstances that exist today, substantial constitutional questions are raised by any attempt by government to regulate the quantity of commercial matter generally; but CBA will leave the constitutional arguments to be made by other larger organizations, which are certain to raise them.

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3. Even if the Commission ultimately decides that some limits are appropriate for full-power stations, it should not apply any new commercial content regulations to LPTV stations except for those few stations that are legally entitled to cable carriage and must abide by full-power television rules to achieve must-carry status.^{2/} The reason is that LPTV stations are intended to serve specialized audiences and specialized needs, and their ability to innovate to fulfill those needs should not be restricted other than under extraordinary circumstances. Further, LPTV stations are subject to so much competition from higher-powered, economically stronger facilities that they simply cannot afford to broadcast anything that does not gain substantial public acceptance if they want to survive. The pressure on LPTV stations is further increased by the fact that most of them do not have must-carry rights on cable. Thus any LPTV station that does survive economically must be broadcasting programming that has substantial audience acceptance. If there is such acceptance, then there is no reason for the Commission to cut the programming service off or impose restrictions on it.

4. To CBA's knowledge, there is no record of public complaint about excessive commercial content on LPTV stations, so there is no cause for regulatory intervention. Few, if any, LPTV

^{2/} Only stations licensed to communities in MSA's below the top 160, with not more than 35,000 population, and in counties with no full-power station, are entitled to must-carry status under Section 614(c) and (h)(2) of the Communications Act.

stations are so successful that they could overload their programming with commercial spot announcements without quickly alienating their viewers. As to formats which might be deemed all-commercial, or "program-length" commercial, such as home shopping, classified advertising, or infomercials, many of these services are highly valued by the public. To the extent that LPTV stations experiment with such formats and meet with success, the LPTV service is an appropriate place for such experimentation. The public should not be deprived of the programming it obviously is choosing to view if the LPTV station is still in business.

5. CBA knows of no LPTV station that has so much control of its market that the public cannot turn away in an instant and find readily available alternatives if dissatisfied with the LPTV station's programming. Thus regulatory intervention is not required to protect the public interest against LPTV commercial practices. Increased regulation should be avoided where not needed.

6. In sum, regulation of commercial content is a solution in search of a problem, at least insofar as LPTV is concerned. Accordingly, CBA urges that whatever regulations may come out of this proceeding for full-power television should not be applied to LPTV except where an LPTV station must comply with the full-

power rule to achieve cable must-carry status or where specially protected audiences such as children are involved.

Respectfully submitted,



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